

# Senate Study Bill 3037

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON BEHN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to municipal utilities that provide  
2 telecommunications services, including the examination and  
3 confidentiality of certain accounting records and provision of  
4 property tax exemptions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 5605SC 80  
7 kk/sh/8

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1 1 Section 1. Section 11.6, subsection 1, paragraph a,  
1 2 unnumbered paragraph 1, Code 2003, is amended to read as  
1 3 follows:  
1 4 The financial condition and transactions of all cities and  
1 5 city offices, counties, county hospitals organized under  
1 6 chapters 347 and 347A, memorial hospitals organized under  
1 7 chapter 37, entities organized under chapter 28E having gross  
1 8 receipts in excess of one hundred thousand dollars in a fiscal  
1 9 year, merged areas, area education agencies, and all school  
1 10 offices in school districts, shall be examined at least once  
1 11 each year, except that cities having a population of seven  
1 12 hundred or more but less than two thousand shall be examined  
1 13 at least once every four years, and cities having a population  
1 14 of less than seven hundred may be examined as otherwise  
1 15 provided in this section. The examination shall cover the  
1 16 fiscal year next preceding the year in which the audit is  
1 17 conducted. The examination of school offices shall include an  
1 18 audit of all school funds, the certified annual financial  
1 19 report, and the certified enrollment as provided in section  
1 20 257.6. Differences in certified enrollment shall be reported  
1 21 to the department of management. The examination of a city  
1 22 utility shall include a report of the utility's compliance  
1 23 with section 388.10.

1 24 Sec. 2. Section 388.9, Code 2003, is amended by adding the  
1 25 following new subsection:

1 26 NEW SUBSECTION. 3. Notwithstanding subsections 1 and 2,  
1 27 if, pursuant to section 11.6, subsection 1, paragraph "a", the  
1 28 auditor of state or a certified public accountant reports that  
1 29 the city utility is not in compliance with section 388.10, all  
1 30 records submitted to the auditor of state or certified public  
1 31 accountant or required to be submitted pursuant to section  
1 32 388.10, subsection 2, paragraph "a", relating to compliance,  
1 33 shall be public records subject to chapter 22.

1 34 Sec. 3. Section 388.10, Code 2003, is amended to read as  
1 35 follows:

2 1 388.10 MUNICIPAL UTILITY PROVIDING ~~LOCAL EXCHANGE~~  
2 2 ~~TELECOMMUNICATIONS~~ SERVICES.

2 3 1. a. A city that owns or operates a municipal utility  
2 4 providing ~~local exchange telecommunications~~ services pursuant  
2 5 to ~~chapter 476~~ or ~~the~~ such a municipal utility shall not do,  
2 6 directly or indirectly, any of the following:

2 7 (1) Use general fund moneys for the ongoing support or  
2 8 subsidy of a telecommunications system.

2 9 (2) Provide any city facilities, equipment, or services to  
2 10 provide telecommunications systems or services at a cost for  
2 11 such facilities, equipment, or services which is less than the  
2 12 reasonable cost of providing such city facilities, equipment,  
2 13 or services.

2 14 (3) Provide any other city service, other than a  
2 15 communications service, to a telecommunications customer at a  
2 16 cost which is less than would be paid by the same person  
2 17 receiving such other city service if the person was not a  
2 18 telecommunications customer.

2 19 (4) Use funds or revenue generated from electric, gas,  
2 20 water, sewage, or garbage services provided by the city for

2 21 the ongoing support of that portion of a system or service  
2 22 ~~used to provide local exchange services any city~~  
2 23 ~~telecommunications system.~~  
2 24 b. For purposes of this section, ~~"telecommunications:~~  
2 25 (1) ~~"Telecommunications system" means only that portion of~~  
2 26 ~~a system or facilities which is used to provide local exchange~~  
2 27 ~~that provides telecommunications services.~~  
2 28 (2) ~~"Telecommunications services" means the retail~~  
2 29 ~~provision of any of the following services:~~  
2 30 (a) ~~Local exchange telephone services.~~  
2 31 (b) ~~Long distance telephone services.~~  
2 32 (c) ~~Internet access services.~~  
2 33 (d) ~~Cable television services.~~  
2 34 2. A city that owns or operates a municipal utility  
2 35 ~~providing local exchange telecommunications services pursuant~~  
3 1 ~~to chapter 476 or the such a municipal utility shall do the~~  
3 2 ~~following:~~  
3 3 a. Prepare and maintain records which record the full cost  
3 4 ~~accounting of providing local exchange service~~  
3 5 ~~telecommunications services.~~ The records shall show the  
3 6 amount and source of capital for initial construction or  
3 7 acquisition of the ~~local exchange telecommunications~~ system or  
3 8 facilities. ~~The records shall be provided for any~~  
3 9 ~~examinations or audits performed pursuant to section 11.6,~~  
3 10 ~~subsection 1, paragraph "a".~~ This section shall not prohibit  
3 11 a municipal utility from utilizing capital from any lawful  
3 12 source, provided that the reasonable cost of such capital is  
3 13 accounted for as a cost of providing the service.  
3 14 b. Adopt rates for the provision of ~~local exchange~~  
3 15 ~~telecommunications services~~ that reflect the actual cost of  
3 16 ~~providing the local exchange service telecommunications~~  
3 17 ~~services.~~ However, this paragraph shall not prohibit the  
3 18 municipal utility from establishing market-based prices for  
3 19 competitive ~~local exchange telecommunications~~ services.  
3 20 c. Be subject to all requirements of the city which would  
3 21 apply to any other provider of ~~local exchange~~  
3 22 ~~telecommunications~~ services in the same manner as such  
3 23 requirements would apply to such other provider.  
3 24 3. This section shall not prohibit the marketing or  
3 25 bundling of other products or services, in addition to ~~local~~  
3 26 ~~exchange telecommunications~~ services. However, a city shall  
3 27 include on a billing statement sent to a person receiving  
3 28 services from the city, a separate charge for each service  
3 29 provided to the person. This subsection does not prohibit the  
3 30 city from also including on the billing statement a total  
3 31 amount to be paid by the person.  
3 32 4. ~~This section shall not apply to telecommunications~~  
3 33 ~~services provided directly by a municipal airport.~~  
3 34 Sec. 4. Section 427.1, subsection 2, Code Supplement 2003,  
3 35 is amended to read as follows:  
4 1 2. MUNICIPAL AND MILITARY PROPERTY. The property of a  
4 2 county, township, city, school corporation, levee district,  
4 3 drainage district, or the Iowa national guard, when devoted to  
4 4 public use and not held for pecuniary profit, except property  
4 5 of a municipally owned electric utility held under joint  
4 6 ownership and property of an electric power facility financed  
4 7 under chapter 28F or 476A that shall be subject to taxation  
4 8 under chapter 437A and facilities of a city or of a municipal  
4 9 utility that are used for the provision of local exchange  
4 10 telecommunications services pursuant to chapter 476, but only  
4 11 to the extent such facilities are used to provide such  
4 12 services, as defined in section 388.10, subsection 1, which  
4 13 shall be subject to taxation under chapter 433 and chapter  
4 14 441, except that where otherwise provided, and section 433.11  
4 15 shall not apply. The exemption for property owned by a city  
4 16 or county also applies to property which is operated by a city  
4 17 or county as a library, art gallery or museum, conservatory,  
4 18 botanical garden or display, observatory or science museum, or  
4 19 as a location for holding athletic contests, sports or  
4 20 entertainment events, expositions, meetings or conventions, or  
4 21 leased from the city or county for any such purposes, or  
4 22 leased from the city or county by the Iowa national guard or  
4 23 by a federal agency for the benefit of the Iowa national guard  
4 24 when devoted for public use and not for pecuniary profit.  
4 25 Food and beverages may be served at the events or locations  
4 26 without affecting the exemptions, provided the city has  
4 27 approved the serving of food and beverages on the property if  
4 28 the property is owned by the city or the county has approved  
4 29 the serving of food and beverages on the property if the  
4 30 property is owned by the county.

4 31 EXPLANATION

4 32 This bill relates to the regulation of municipal utilities  
4 33 and cities owning or operating municipal utilities that  
4 34 provide telecommunications services.

4 35 The bill replaces the term "local exchange services" with  
5 1 "telecommunications services" where it appears in Code  
5 2 sections 388.10 and 427.1 and provides a definition for what  
5 3 services constitute "telecommunications services". Municipal  
5 4 airports providing telecommunications services are exempted by  
5 5 the bill from compliance with Code section 388.10.

5 6 The bill requires the examination of a city utility by the  
5 7 auditor of state or certified public accountant to include a  
5 8 report of whether the utility is in compliance with Code  
5 9 section 388.10. In preparation for the examination, the  
5 10 utility must provide all accounting records to the auditor of  
5 11 state or certified public accountant. If it is reported that  
5 12 the utility is not in compliance with Code section 388.10, all  
5 13 accounting records provided or which were required to have  
5 14 been provided become public records under Code chapter 22.

5 15 The bill specifies that property of a city or municipal  
5 16 utility used to provide telecommunications services is not  
5 17 exempt from taxation under Code chapters 433 and 441.

5 18 LSB 5605SC 80

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